

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

FNTV LLC

Plaintiff,

- against -

MERCURY RADIO ARTS, INC.

Defendant.

Docket No. 3:21-cv-344

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff FNTV LLC (“FNTV” or “Plaintiff”) by and through its undersigned counsel, as and for its Complaint against Defendant Mercury Radio Arts, Inc. (“Mercury Radio Arts” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted video of protesters destroying restaurants in Rochester, owned and registered by FNTV, a licensing agency specializing in breaking news content. Accordingly, FNTV seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in Texas.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. FNTV is a licensing agency specializing in breaking news content in the business of licensing its content for a fee.

6. Upon information and belief, Mercury Radio Arts is a domestic business corporation duly organized and existing under the laws of the State of Texas, with a place of business at 6301 Riverside Drive, Irving, Texas 75039. Upon information and belief, Mercury Radio Arts is registered with the Texas Department of Corporations to do business in Texas. At all times material, hereto, Mercury Radio Arts has owned and operated a websites at the URL: www.GlennBleck.com and has operated their own YouTube page at the URL: <https://www.youtube.com/channel/UCvqztzdcURSqNjY9RQEK4XmQ> (the “Websites”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Video

7. FNTV owns a video of protesters destroying restaurants in Rochester (the “Video”).

8. FNTV has at all times been the sole owner of all right, title and interest in and to the Video, including the copyright thereto.

10. The Video was registered with the United States Copyright Office and was given registration number PA 2-265-782. A copy of the copyright registration and the deposit copy is attached hereto in Exhibit A.

B. Defendant’s Infringing Activities

11. Mercury Radio Arts ran the Video on the Websites. See:

<https://www.glennbeck.com/radio/this-video-of-protesters-destroying-restaurants-in-rochester-shows-blm-is-a-terrorist-organization>

and <https://www.youtube.com/watch?v=02yPrY19EJw>.

Screenshots of the Video on the Websites are attached hereto in Exhibit B.

12. Mercury Radio Arts did not license the Video from Plaintiff for its Websites, nor did Mercury Radio Arts have Plaintiff's permission or consent to publish the Video on its Websites.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST MERCURY RADIO ARTS)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Mercury Radio Arts infringed Plaintiff's copyright in the Video by reproducing and publicly displaying the Video on the Websites. Mercury Radio Arts is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Video.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Mercury Radio Arts have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

18. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Video, pursuant to 17 U.S.C. § 504(c).

19. Plaintiff further is entitled to its attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Mercury Radio Arts be adjudged to have infringed upon Plaintiff's copyrights in the Video in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Video; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded its costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
February 18, 2021

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